

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6027

BILL NUMBER: HB 1035

DATE PREPARED: Nov 4, 2001

BILL AMENDED:

SUBJECT: Indemnification Clauses in Contracts.

FISCAL ANALYST: John Parkey

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FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill expands the prohibition against construction or design contracts indemnifying a promisee against liability to account for comparative fault liability.

Effective Date: July 1, 2002.

Explanation of State Expenditures: The impact of this bill on the state's contracting costs is expected to be minimal.

Background: This bill seeks to clarify the law as it relates to the issue of negligence in construction and design contracts. This bill would invalidate construction or design contracts that include any provisions that purport to indemnify the contractor (promisee) against paying claims for *any* level of negligence or willful misconduct that result in damages to a person or property or is a design fault. (Current law invalidates construction or design contracts that include any provision that purports to indemnify the contractor against paying claims for the *sole* negligence or willful misconduct that result in damages to person, property, or designs.)

Explanation of State Revenues:

Explanation of Local Expenditures: This provision could also impact contracts entered into by local governmental entities.

Explanation of Local Revenues:

State Agencies Affected: Department of Administration; Entities that contract for construction and design services.

Local Agencies Affected: Entities that contract for construction and design services.

Information Sources: Jay McQueen, Deputy Commissioner, Department of Administration, 232-7636.